

McDermottPlus Check-Up

McDermott+Consulting is pleased to introduce the McDermottPlus Check-Up, your regular update on health care policy from Washington, DC.



THIS WEEK'S DIAGNOSIS: Hearings, hearings and more hearings. FDA Commissioner Scott Gottlieb is stepping down. Budget talks heat up.

CONGRESS

- + **HEARINGS GALORE.** Both chambers were busy with health care hearings ranging in issues from vaccines to prescription drug pricing. Here is a rundown of the highlights and links to detailed summaries.
 1. **Senate Finance on Nursing Home Neglect.** The hearing focused primarily on the systemic issues that allow substandard care and abuse in nursing home facilities and potential solutions for reform. In addition to focusing on neglect, Chairman Chuck Grassley (R-IA) was concerned with the recent rural nursing home closures, and Ranking Member Ron Wyden (D-OR) was largely concerned with the trend of implementing pre-dispute arbitration agreements. We expect the Committee to continue to watch this issue. [Detailed summary here.](#)
 2. **Senate Health, Education, Labor and Pensions on Vaccines.** This is the second congressional hearing on vaccine compliance since the outbreak of measles in western states. Of note, all members of the committee agreed that vaccines are safe and effective, and important to public health, but Senator Rand Paul (R-KY) surprised some by saying vaccination should not be mandated by law, as some states are looking to do. [Detailed summary here.](#)
 3. **Senate Aging on Prescription Drug Pricing.** This was a two-day hearing. The witnesses at the first hearing urged Congress to take action on drug prices and discussed how a monthly fixed payment cap on medication would be beneficial to patients. [Detailed summary for Part 1.](#) At the second hearing, the witnesses agreed that stronger consumer education tools, increased price transparency and more robust consumer protection are needed. Chairman Collins highlighted the need for congressional action and called attention to her recently introduced legislation, the Biologic Patent Transparency Act ([S.659](#)). This bill seeks to address patent practices by pharmaceutical companies that may lead to a lack of competition. [Detailed summary for Part 2.](#)
 4. **House Energy and Commerce on Health Coverage.** The House Energy and Commerce Health Subcommittee held a legislative hearing on a series of bills that provide funding for programs under the Affordable Care Act (ACA), including money for reinsurance ([H.R. 1425](#)), navigators ([H.R. 1386](#)) and marketplaces ([H.R. 1385](#)). While there was general agreement on the need to stabilize the

individual insurance market and lower costs, there are still mixed feelings on the reinsurance program. [Detailed summary here](#). Now that the subcommittee has held a legislative hearing, it is free to move to the next step: a subcommittee mark-up. This is further evidence the Democrats are attempting to advance their health policy priorities.

5. **House Ways and Means on Prescription Drug Pricing.** The House Ways and Means Health Subcommittee focused on proposals to lower drug prices, including Subcommittee Chairman Lloyd Doggett (D-TX)'s [bill](#) that would allow the government to negotiate drug prices in Part D. There was a lack of consensus from the witnesses that an approach like this would be manageable and impactful in the long-term. There was tepid bipartisan support for increasing transparency through reporting requirements for those involved in the rebate process. This is important to watch as pharmacy benefit management companies are expected to appear before the Senate Finance Committee next month. This hearing may provide some insight as to where Senators will fall on changing the rebate system, as well as an opportunity for the PBMs to speak to their role in the process.
- + **HIPAA AND PRIVACY.** Senators Joe Manchin (D-WV) and Shelly Moore Capito (R-WV) sent a [letter](#) to the Department of Health and Human Services (HHS) on aligning health information privacy regulations. The bipartisan letter, signed by 13 Senators, urges HHS to begin rulemaking on updating 42 CFR Part 2, which regulates how substance abuse records are shared. In the 115th Congress, a bill passed the House that would align these regulations with how personal health information is regulated under the Health Insurance Portability and Accountability Act. It died in the Senate. The Administration has indicated its intent to release a request for information on 42 CFR Part 2.

ADMINISTRATION

- + **AZAR TEASES KIDNEY MODEL.** HHS Secretary Alex Azar [outlined](#) a value-based plan for transforming kidney care, with an emphasis on in-home treatment and transplants. The Center for Medicare and Medicaid Innovation has hinted at numerous models intended to transform the Medicare payment system from volume-based to value-based. Track the newly released models with our CMMI [summary chart](#).
- + **RFI ON INSURANCE ACROSS STATE LINES.** CMS released a [request for information](#) (RFI) on increasing flexibility for health insurers to sell individual plans across state lines. The agency specifically mentioned using Section 1333 of the ACA, which allows two or more states to form a “health care choice compact.” This effectively gives insurers a path forward to sell qualified health plans across state lines. No states, however, have pursued this approach. This is not the first time the Administration has expressed support for this flexibility. The President issued an [executive order](#) on selling insurance across state lines back in October 2017.
- + **GOTTLIEB ANNOUNCES DEPARTURE.** Food and Drug Administration Commissioner Scott Gottlieb announced that he will be stepping down at the end of March. This came as a surprise to many. There is no clear successor.

NEXT WEEK'S DOSE

On Monday, the Administration is expected to release its FY 2020 budget. While it used to be an important guide for Congress, its relevance has deteriorated significantly over the last several years. We will watch for overarching themes from HHS Secretary Azar. How many of his proposals are legislative and how many are regulatory?

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